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Date: JULY 12, 2004

To: EXAMINER PANNALA  
U.S. PATENT AND TRADEMARK OFFICE

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Client/Matter No.: AUS920010765US1 (9000/75)

# of Pages: 4  
(including cover sheet)

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PATENT  
Case No. AUS920010765US1  
(9000/75)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:	)	
	)	
VIKTORS BERTIS	)	Examiner: PANNALA, S. R.
	)	
Serial No.: 09/997,916	)	
	)	Group Art Unit: 2177
Filed: NOVEMBER 29, 2001	)	
	)	
Title: FILE MAINTENANCE ON A	)	
COMPUTER GRID	)	

**AGENDA OF TELEPHONE INTERVIEW FOR JULY 13, 2004 AT 2:00 PM EST**

Dear Sir:

The following is an agenda of the issues the Applicant would like addressed on the telephone interview scheduled for July 13, 2004 at 2:00 PM EST regarding the First Non-Final Office Action mailed on April 26, 2004:

Claims 1-2, 6-7, 9-12, 16-17, and 19-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien et al. (US Patent 6,351,776) in view of Millard (US Patent 6,122,738).

In reference to independent claims 1 and 11, the Applicant respectfully disagrees with the assertion that O'Brien teaches the claimed step of "determining a usage profile of the member" wherein the client may request an access to the X-drive which is an Internet hard drive (Fig. 1, col. 7, lines 5-24). A hard drive request as disclosed by O'Brien may lead to a determination that the client computer is actively being used at that instant. O'Brien, however, is silent as to how this request may lead to a determination of an overall usage profile. It is simply not possible to determine times of

computer inactivity using simply the disclosure of O'Brien, which is a necessary component for determining a usage profile. The maintenance functions of the present invention are performed based on the usage profile. Without knowing when the client computer is inactive, many of the maintenance functions may not operate properly and/or may conflict with active use of the computer (i.e., an ongoing file archive function may deprive vital computer resources from the user while he/she accessed the computer at the same time).

In reference to independent claims 1 and 11, the Applicant respectfully disagrees with the assertion that O'Brien teaches the claimed step of "performing a maintenance function based on the database" wherein the database is archived in order to access alternate database (Fig. 2, col. 9, lines 29-33). O'Brien discloses that the database object 236, which is not a database in and of itself but more like a file, determines the database operation to be performed and/or to which database to send operations based on the type of request it receives (Fig. 2, col. 9, lines 33-42). The requests originate from a client at the command of users (Fig. 1, col. 7, lines 9-11). As such, the maintenance function is based on user requests and not on a database itself as is recited in claims 1 and 11.

To establish a *prima facie* case of obviousness (1) the prior art references must teach or suggest all the claimed limitations; and (2) there must be some suggestion or motivation to combine reference teachings—the teaching or suggestion to make the claimed combination must both be found in the prior art and not based on the applicant's disclosure. The Applicant asserts that O'Brien fails to disclose at least two limitations of claims 1 and 11. In addition, both the O'Brien and Millard patents fail to disclose, teach, or suggest their combination to arrive at the invention as recited in claims 1 and 11. Thus, a *prima facie* case of obviousness cannot be established against independent claims 1 and 11 due to a failure to meet the two conditions. Withdrawal of the rejection to claims 1 and 11 under 35 U.S.C. 103(a) is therefore respectfully requested.

Claims 2-10 and 11-20 depend from independent claims 1 and 11, respectively, and therefore include each and every limitation of claims 1 and 11. Therefore, claims 2-10 and 11-20 should be allowed for at least the same reasons provided for claims 1 and 11. Withdrawal of the rejection under 35 U.S.C. 103(a) to claims 2-10 and 11-20 is therefore respectfully requested.

PTOL-413A (08-03)  
Approved for use through 07/31/2006, OMB 0661-0031  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

### Applicant Initiated Interview Request Form

Application No. 09/997,916 First Named Applicant: Viktors Berstis  
Examiner: Pannala, S. R. Art Unit: 2177 Status of Application: 1st OA

#### Tentative Participants:

(1) Frank Nicholas (2) \_\_\_\_\_  
(3) \_\_\_\_\_ (4) \_\_\_\_\_

Proposed Date of Interview: 7/13/2004 Proposed Time: 2:00 (AM/PM)

#### Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: \_\_\_\_\_

### Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rej - 103(a)</u>	<u>1 + 11</u>	<u>O'Brien 6,351,776</u> <u>Millard 6,122,738</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Continuation Sheet Attached

#### Brief Description of Arguments to be Presented:

O'Brien fails to disclose at least two limitations of indep.  
claims 1 and 11. Further, O'Brien and Millard fail to  
disclose, teach, or suggest their combination to arrive at  
claims 1 and 11.  
An interview was conducted on the above-identified application on \_\_\_\_\_

#### NOTE:

This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

[Signature]  
(Applicant/Applicant's Representative Signature)

\_\_\_\_\_  
(Examiner/SPE Signature)

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. The collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.